



## CITY OF DULUTH

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

### STAFF REPORT

<b>File Number</b>	PL 13-037	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Vacation of Street and Utility Easement	<b>Planning Commission Date</b>	January 14, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	November 15, 2013	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	December 19, 2013	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Between 1st and 2nd Street and 11th and 12th Avenue East			
<b>Applicant</b>	St. Luke's Hospital	<b>Contact</b>	249-5555	
<b>Agent</b>	Kenneth Butler	<b>Contact</b>	625-2278, kbutler@kenbutlerlaw.com	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	November 22, 2013	<b>Sign Notice Date</b>	December 19, 2013	
<b>Neighbor Letter Date</b>	December 31, 2013	<b>Number of Letters Sent</b>	33	

#### Proposal

The property owner is requesting vacations of an unimproved alley, access easement, and utility easement.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-I	Medical campus	Medical District
<b>North</b>	R-2	Residential	Medical District
<b>South</b>	MU-I	Medical campus	Medical District
<b>East</b>	MU-N	Residential	Central Business Secondary/Urban Residential
<b>West</b>	MU-I	Medical campus	Medical District

#### Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the Council.

Code Requirements are found in the UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient , supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth .

**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Governing Principle #4 - Support emerging economic growth sectors. The medical industry is among those identified in the comprehensive plan.

Future Land Use - Institutional: Applicable to university and college and public school campuses, large religious facilities or governmental campuses, cemeteries, etc.

In 2013, Planning Commission adopted a District Plan for the St. Luke's campus, showing employee parking lots in this area.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

Staff finds that:

- 1.) The applicant (St. Luke's Hospital) owns the land surrounding the proposed vacation area. The property owners submitted a petition that contained a majority of the affected property owners' signatures.
- 2.) The alley and utility easement are 20' wide; the access easement is 24' wide. The sanitary sewer line in the alley and utility easement has been abandoned. Minnesota Power and CenturyLink have also removed all utilities from the alley.
- 3.) The access easement was originally dedicated in January 2011 for the purposes of City plowing of the alley. With construction of the parking lots, this easement is no longer needed.
- 4.) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 5.) Alley and easements are not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians, or the efficient supply of utilities or public services in the city; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 6.) Granting of the petition is consistent with Governing Principle #4 of the comprehensive plan and with the approved District Plan for the St. Luke's campus.
- 7.) No other public, City, or agency comments were received.
- 8.) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

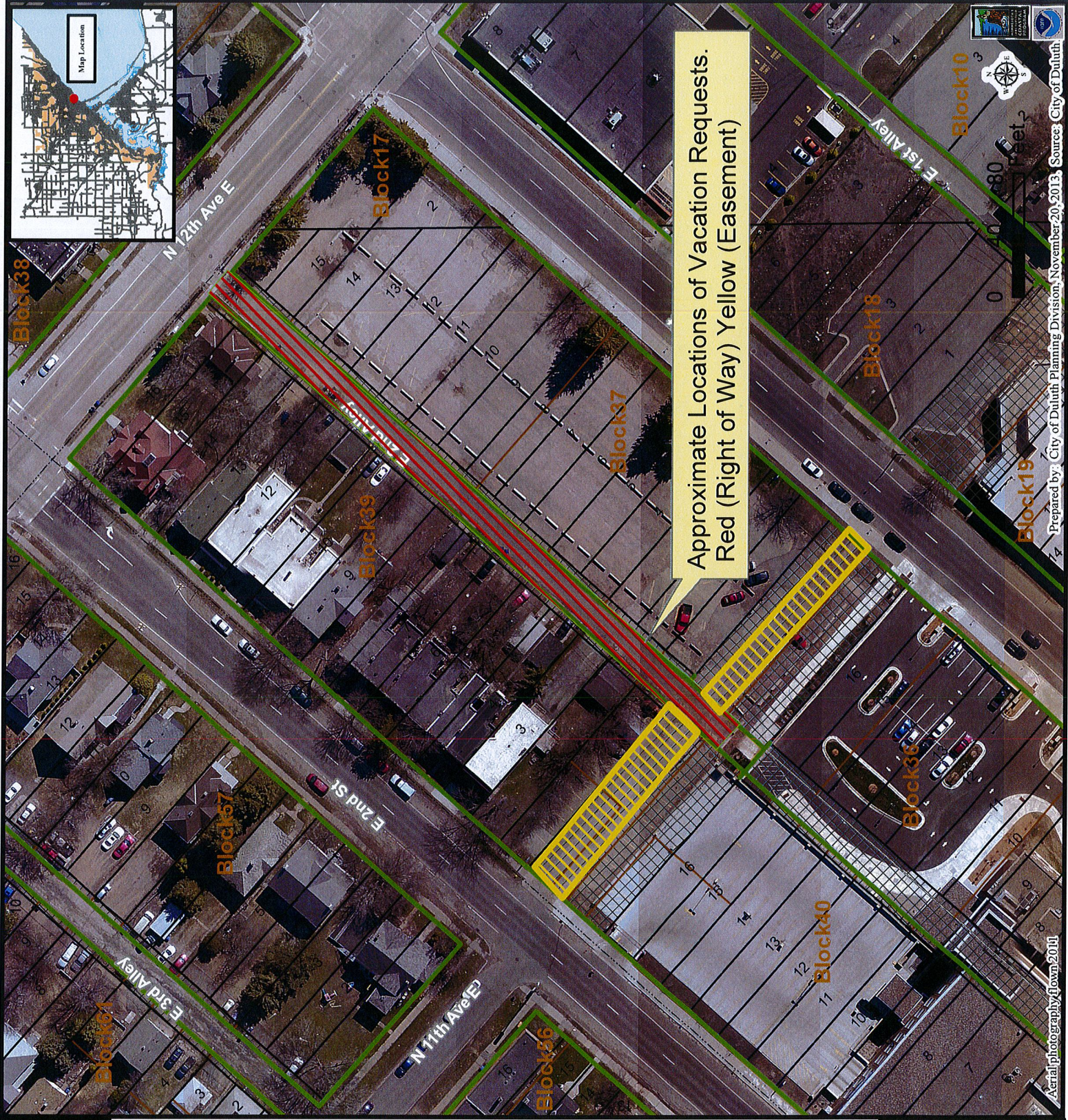
**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the alley and easements with the following condition:

- 1.) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**





### Legend

#### Boundary Lines

<all other values>

Subtype, ROW\_TYPE

Lot Line

Parcel Line

ROW (Road)

ROW (Not Road)

Subdivision Line

Water Line

Survey Line

Municipal Boundary

Blocks

Lots

Vacated ROW

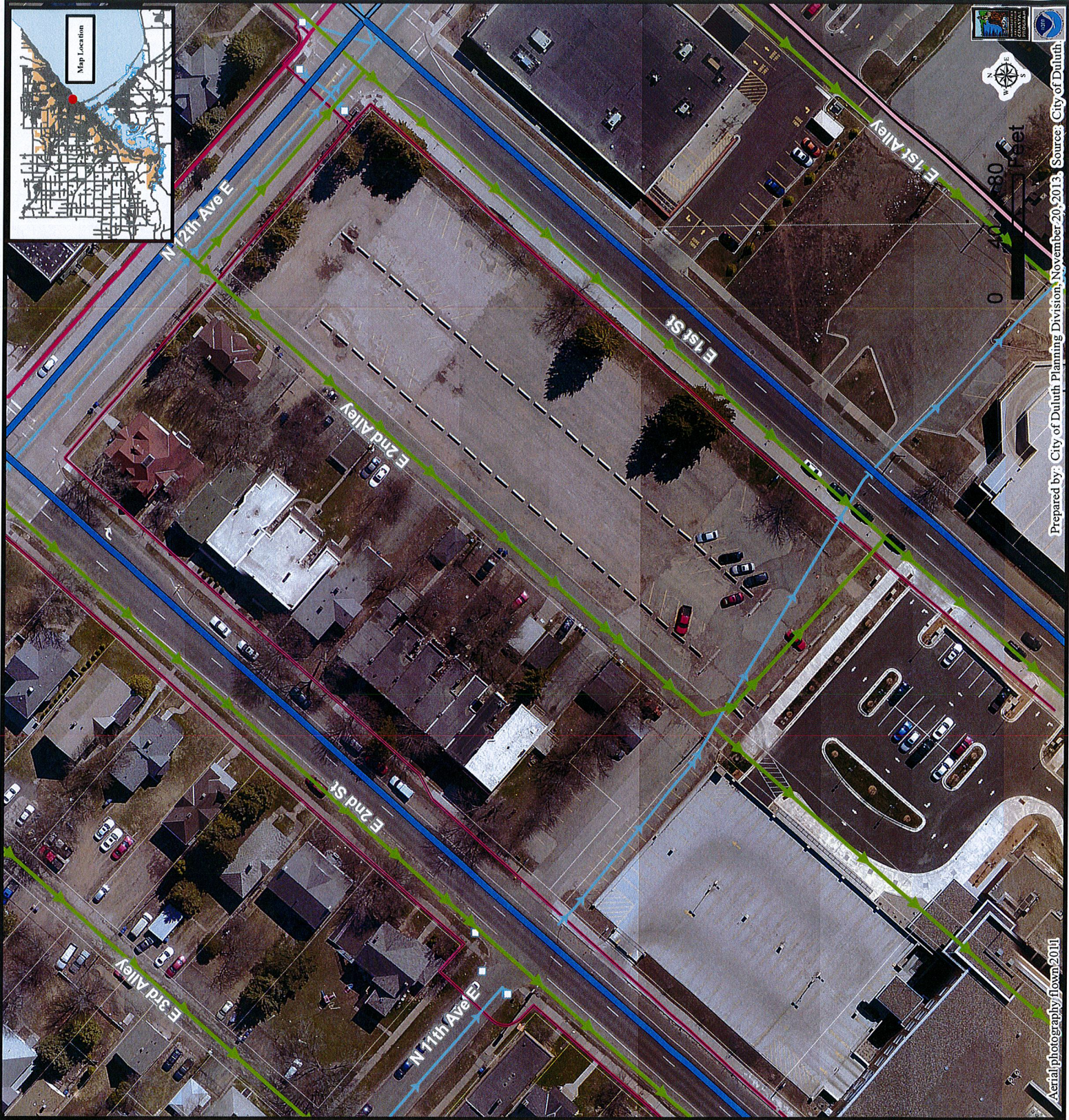
Easement Type

Utility Easement

Other Easement

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





### Legend

#### Water Distribution System

- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe

#### Sanitary Sewer Collection System

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main

- Storage Basin
- Pump Station

#### Gas Distribution Main

- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

#### Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge Points

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



**AMENDED PETITION FOR VACATION OF AN  
ALLEY AND EASEMENTS  
PURSUANT TO  
DULUTH CITY CODE SEC. 45-38**

PETITIONER ST. LUKE'S HOSPITAL OF DULUTH (hereinafter "Petitioner") hereby petitions the City of Duluth City Council to:

- vacate the public alley between Blocks 37 and 39;
- vacate a 24.00 foot wide easement for access purposes lying over, under and across the southwesterly 24.00 feet of the northeasterly 28.00 feet of that portion of the vacated 11<sup>th</sup> Avenue East lying between Blocks 39 and 40;
- vacate the utility easement in vacated 11<sup>th</sup> Avenue East between Blocks 36 and 37; and
- abandon the sewer line below the subject alley and easements,

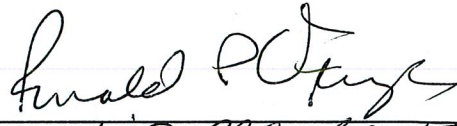
all in PORTLAND DIVISION OF DULUTH, for the facts and reasons hereinafter set forth.

1. Your Petitioner owns all of the lineal footage of land abutting both sides of the portion of the alley and access easement proposed to be vacated.
2. Attached as Exhibit A is a copy of the plat of the ground with that portion of the alley and access easement proposed to be vacated shown in yellow.
3. Only your Petitioner would be affected by the proposed vacation.
4. The sewer line located beneath the subject alley and between Blocks 36 and 37, PORTLAND DIVISION OF DULUTH no longer serves any purpose for which it was constructed.
5. The Land is envisioned to be used for future medical campus expansion which will be more feasible without the subject alley and easements.
6. Attached as Exhibit B are letters from Minnesota Power and Centurylink Communications disclaiming any interests in utility easements previously granted them for cable and electrical purposes.



Dated: October 27, 2013.

ST. LUKE'S HOSPITAL OF DULUTH

By   
Its Vice President





© **minnesota power** / 30 west superior street / duluth, minnesota 55802-2093 / 218-722-5642 / www.mnpower.com

EXHIBIT B  
Page 1 of 2

October 18, 2013

Mr. John Simpson  
St. Luke's Hospital  
915 E 1<sup>st</sup> St  
Duluth, MN 55805

RE: Removal of Minnesota Power owned facilities

Dear Mr. Simpson,

All Minnesota Power utilities have been removed from E 2<sup>nd</sup> Alley between N 10<sup>th</sup> Ave E and N 12 Ave E. Since St. Luke's Hospital owns the land on either side of this alley Minnesota Power has no need to retain a utility easement there. The vacation of the alley will be approved once City Planning officially notifies Minnesota Power.

If you should have any questions, please feel free to call me at 355-2409.

Sincerely,

Josh Guck  
Distribution Engineer



EXHIBIT B  
Page 2 of 2

Centurylink Communications

322 W 1<sup>st</sup> Street

Duluth, Minnesota 55802

To: John Simpson

St. Luke's Hospital

915 E 1<sup>st</sup> Street

Duluth, Minnesota 55805

RE: Alley Easement Vacation

John,

Centurylink has completed relocation, and vacated or removed, all aerial and buried facilities, in the alley located from E 1<sup>st</sup> Street to E 2<sup>nd</sup> Street, between 11 Ave E and 12<sup>th</sup> Ave E in Duluth, Minnesota.

Centurylink no longer has an interest or will pursue utility right of way in this alley easement.

PLEASE feel free to contact me with any questions @ 218-723-4213

THANK YOU

Patrick Geiger

Sr. Design Engineer

Signed Patrick Geiger dated 10-17-2013



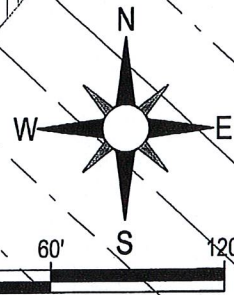
PORTLAND

EAST 2ND STREET

NORTH 12TH AVE EAST  
WESTERLY RIGHT-OF-WAY  
OF NORTH 12TH AVE EAST  
SITE PROPERTY LINE

BLOCK 39

VACATE EXISTING 20' ALLEY LOCATED BETWEEN BLOCKS 38 AND 37  
AS PLATTED IN THE PORTLAND DIVISION OF DULUTH THAT LIES  
BETWEEN THE CENTERLINE OF THE FORMER RIGHT-OF-WAY OF  
NORTH 11TH AVENUE EAST AND THE WESTERLY RIGHT-OF-WAY OF  
NORTH 12TH AVENUE EAST.



BLOCK 37

DIVISION

NORTH 11TH

BLOCK 40

BLOCK 36

AVE EAST

FORMER CENTERLINE OF  
NORTH 11TH AVE EAST

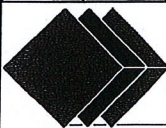
VACATED 11TH  
AVENUE EAST

EAST 1ST STREET

APPROVED:

CITY ENGINEER

DATE:



**Northland**  
Consulting Engineers L.L.P.

Structural, Civil and Forensic Engineering Services

Voice: (218) 727-5995  
Fax: (218) 727-7779

[www.nce-engineers.com](http://www.nce-engineers.com)

EXHIBIT A



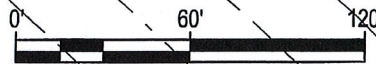
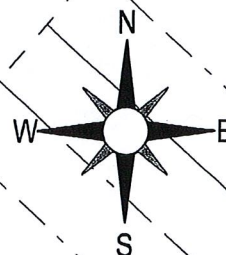
PORTLAND

EAST 2ND STREET

NORTH 12TH AVE EAST

BLOCK 39

VACATE EXISTING 24' ACCESS EASEMENT LYING OVER UNDER AND  
ACROSS THE SOUTHWESTERLY 24' OF THE NORTHEASTERLY 28' OF THAT  
PORTION OF THE VACATED 11TH AVENUE EAST LYING BETWEEN BLOCKS  
40 AND 39 AS PLATTED IN THE PORTLAND DIVISION OF DULUTH.



DIVISION

EAST 1ST STREET

NORTH 11TH

BLOCK 40

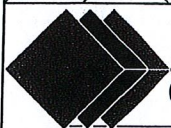
BLOCK 36

AVE EAST

APPROVED:

CITY ENGINEER

DATE:



**Northland**  
Consulting Engineers L.L.P.

Structural, Civil and Forensic Engineering Services

Voice: (218) 727-5995  
Fax: (218) 727-7779

www.nce-engineers.com

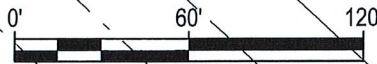
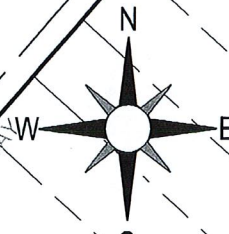
EXHIBIT B



PORTLAND

EAST 2ND STREET

NORTH  
12TH AVE EAST



BLOCK 39

SECTION LINE

VACATED 11TH  
AVENUE EAST

EXISTING ACCESS  
EASEMENT

NORTH 11TH

BLOCK 40

AVE

LOT 16

90°05'08"

32.86'

140.09'

EAST

VACATE EXISTING 20' UTILITY EASEMENT LYING OVER UNDER AND ACROSS THAT PORTION  
OF THE VACATED 11TH AVENUE EAST LYING BETWEEN BLOCKS 36 AND 37 AS PLATTED IN THE  
PORTLAND DIVISION OF DULUTH. THENCE NORTHEASTERLY CORNER OF LOT 16, BLOCK  
36, SAID PORTLAND DIVISION OF DULUTH. COMMENCING AT NORTHERLY CORNER OF LOT 16, BLOCK  
36, SAID PORTLAND DIVISION OF DULUTH. THENCE NORTHEASTERLY ALONG THE  
NORTHEASTERLY EXTENSION OF THE NORTHWESTERLY LINE OF EXISTING 20' UTILITY  
EASEMENT TO BE VACATED; THENCE DEFLECTING TO THE LEFT AT AN ANGLE OF 91 DEGREES  
05 MINUTES 08 SECONDS, A DISTANCE OF 140.09' ALONG SAID CENTERLINE TO THE  
NORTHEAST EXTENSION OF THE SOUTHEASTERLY LINE OF SAID BLOCK 36 AND THERE  
TERMINATING.

VACATED 11TH  
AVENUE EAST

BLOCK 37

EAST 1ST STREET

DIVISION

APPROVED:

CITY ENGINEER

DATE:



**Northland**

Consulting Engineers L.L.P.

Structural, Civil and Forensic Engineering Services

Voice: (218) 727-5995  
Fax: (218) 727-1779

www.nce-engineers.com

EXHIBIT C

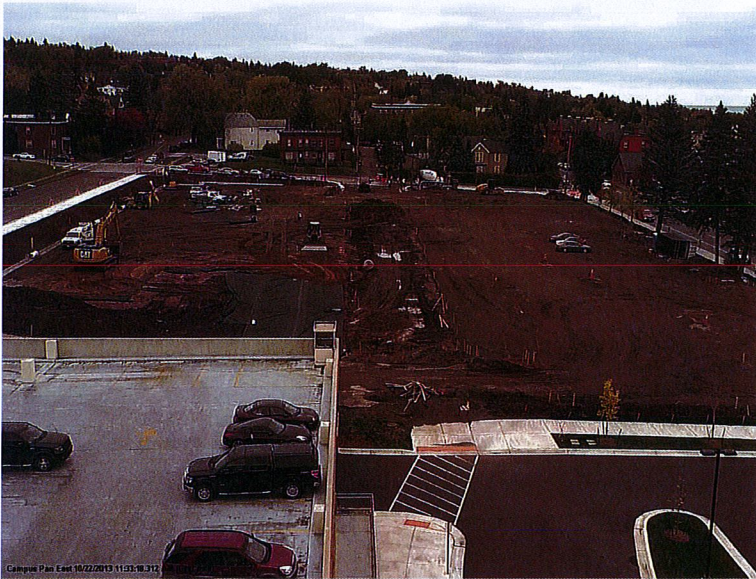


## St. Luke's Parking Lots

### Site Photos



Before parking lot construction, showing 1<sup>st</sup> Street in foreground, looking towards alley and rear of buildings facing 2<sup>nd</sup> Street.



During construction



Parking lots are nearly complete. Landscaping will be installed in 2014.